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FIRST GENERAL COUNSEL'S REPORT **SENSITIVE**

MUR 5749
DATE COMPLAINT FILED May 16, 2006
DATE OF NOTIFICATION May 19, 2006
LAST RESPONSE RECEIVED June 30, 2006
DATE ACTIVATED September 15, 2006

EXPIRATION OF STATUTE OF LIMITATIONS
December 15, 2009

COMPLAINANT

Citizens for Responsibility and Ethics in Washington

RESPONDENTS

GSP Consulting Corporation
GSP Consulting Corporation PAC and John Dick,
in his official capacity as treasurer
Houston Harbaugh Legislative Services PAC and
Gregory Harbaugh, in his official capacity as
treasurer
John Dick
Joseph Kuklis
Charles Hammel
Sean McDonald
James Cimino
Pittsburgh Airport Area Chamber of Commerce
Santorum 2006, and Gregg R. Melinson, in his
official capacity as treasurer

RELEVANT STATUTES AND
REGULATIONS

2 U S C § 433(b)(2)
2 U S C § 441a(a)
2 U S C § 441a(f)
2 U S C § 441b(b)
11 C F R § 100.5(g)
11 C F R § 102.2
11 C F R § 103.3
11 C F R § 110.1
11 C F R § 110.3(a)
11 C F R § 110.9
11 C F R § 114.2(f)
11 C F R § 114.5

INTERNAL REPORTS CHECKED Federal Disclosure Reports

FEDERAL AGENCIES CHECKED None

I. INTRODUCTION

The complaint in this matter focuses on contributions accepted by, and made to and through, GSP Consulting Corporation PAC and John Dick, in his official capacity as treasurer ("GSP PAC"), the separate segregated fund of GSP Consulting Corporation ("GSP"), a political consulting firm, as well as on alleged excessive contributions made to and accepted by Santorum 2006 and Gregg R. Melinson, in his official capacity as treasurer ("Santorum 2006"). According to the complaint, John Dick and Joseph Kuklis, GSP principals, and Charles Hammel, the president of a GSP client, allegedly made, and GSP PAC accepted, excessive contributions, and GSP or GSP PAC may have improperly solicited Hammel, who is outside of GSP's restricted class, for his contribution. The complaint also alleges that GSP, a corporation, may have improperly facilitated earmarked contributions to federal candidates through GSP PAC from GSP clients and their officials.¹

In addition, the complaint alleges that GSP PAC and Houston Harbaugh Legislative Services PAC and Gregory Harbaugh, in his official capacity as treasurer ("HHLS PAC"), the separate segregated fund of Houston Harbaugh Legislative Services ("HHLS"), a "joint venture" between GSP and the law firm Houston Harbaugh, P.C., failed to report their affiliation, and, as affiliated committees, made an excessive contribution to Santorum 2006. Finally, it alleges that Sean McDonald, CEO of a GSP client, made, and Santorum 2006, accepted, an excessive contribution.

¹ Specifically, the complaint alleges that GSP may have improperly solicited contributions from Sean McDonald and James Cimino, officials of GSP clients, and GSP client Pittsburgh Airport Area Chamber of Commerce ("PAACC"). Commission filings reflect that PAACC's political action committee ("PAACC PAC"), a registered committee, and not PAACC, made the contributions.

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1 GSP, GSP PAC, HHLS PAC, Dick, Kuklis, Hammel and McDonald are all represented by
2 the same counsel, who filed a joint response on his clients' behalf ("Joint Response") While
3 conceding that "a number of other violations of the Federal Election Campaign Act of 1971
4 did inadvertently occur," the Joint Response denies the bulk of the complaint's allegations
5 Santorum 2006 also filed a response stating it did not knowingly accept contributions from the
6 putatively affiliated PACs and returned any potentially excessive contributions upon learning of
7 the possible violation ²

8 As set forth in more detail below, we recommend that the Commission find no reason to
9 believe that McDonald made, or Santorum 2006 knowingly accepted, an excessive contribution
10 from McDonald or the putative affiliated PACs As to the other allegations, an investigation
11 appears to be warranted Therefore, we recommend that the Commission find reason to believe
12 Dick, Kuklis and Hammel made, and GSP PAC accepted, excessive contributions, GSP PAC
13 solicited Hammel's contribution from outside GSP's restricted class, GSP solicited and
14 facilitated client contributions to or that flowed through GSP PAC from outside GSP's restricted
15 class, and that GSP PAC and HHLS PAC failed to disclose their affiliated status, and, as
16 affiliated committees, made excessive contributions to Santorum 2006

17 **II. DISCUSSION**

18 **A. Excessive Contributions to GSP PAC**

19
20 **I. Facts**

21 GSP principals John Dick and Joseph Kuklis, and Charles Hammel, president of a GPS
22 client, each admittedly contributed in excess of \$5,000 to GSP PAC in 2005 See Attachment 1

² Cimino and PAACC have not filed responses See footnote 1

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1 and Joint Response at 11³ In 2005, Dick's, Kuklis', and Hammel's total contributions to GSP
2 PAC were \$14,000, \$11,800, and \$15,000, respectively. Additionally, on January 3, 2005, Kuklis
3 and Dick each contributed \$1,500 to HHLS PAC, putatively affiliated with GPS PAC. See
4 discussion *infra*.

5 According to the Joint Response, prior to 2005, GSP PAC had separate federal and
6 nonfederal accounts. Joint Response at 5-6. On April 16, 2005, GSP PAC changed banks and
7 decided to use only one account for both federal and nonfederal funds "to streamline operations."
8 *Id.* Prior to this consolidation, Dick and Kuklis had made contributions to the separate federal
9 and non-federal accounts; there are no contribution limits for state election activity under
10 Pennsylvania law. *Id.*, see also 25 Pa. Stat. Ann. § 3524. After the consolidation, not realizing
11 that the combined account was now subject to federal contribution limits, Dick (who was also
12 GSP PAC's treasurer) and Kuklis continued to make contributions for both federal and state
13 election activity "under the mistaken belief that contributions they made to GSP PAC to be used
14 in connection with Pennsylvania state races were still subject to Pennsylvania law and therefore
15 could be made without limit." Joint Response at 6. The aggregated reported contributions by
16 Kuklis and Dick to GSP PAC first exceeded the contribution limits on July 21, 2005, three
17 months after the federal and nonfederal accounts were consolidated. See Attachment 1.

18 The Joint Response states that "[o]n January 16, 2006, GSP PAC's assistant treasurer
19 began to prepare the PAC's 2005 Year-End Report" and discovered the excessive contributions.
20 Joint Response at 6-7. GSP PAC refunded \$10,000 to Hammel the next day, leaving insufficient
21 funds for further refunds. *Id.* at 7, see GSP PAC 2006 April Quarterly Report. Refunds to

³ Dick and Kuklis are referred to as establishing GSP and as "principals" of GSP in the Joint Response. See also www.gspconsulting.com, which refers to them as having co-founded GSP. The Pennsylvania Department of State's on-line corporation database does not contain their exact titles or positions, and we do not currently know this information.

Kuklis and Dick were made in January and February of 2006 once solicitations made to GSP's restricted class resulted in sufficient funds Joint Response at 7, *see* Attachment 1 On March 7, 2006, GSP PAC again switched banks, as reflected on the amended Statement of Organization filed on March 17, 2006, and "believed that it had taken all of the steps necessary to come back into compliance with FECA" and prevent future excess contributions Joint Response at 8

2 Analysis

Pursuant to 2 U S C § 441a(a)(1)(C), no person may make a contribution to a political committee, which includes a separate segregated fund ("SSF"), in any calendar year, which in the aggregate, exceeds \$5,000 11 C F R § 100.5(b) Dick, Kuklis and Hammel each admitted to making contributions exceeding \$5,000 to GSP PAC in 2005, Joint Response at 11, and GSP PAC knowingly received these excessive contributions ⁴ Although the failure to consider the implications of the consolidation of GSP PAC's federal and non-federal accounts appears careless, we have no evidence indicating that there was any intention to exceed the federal limits, and GSP PAC discovered and remedied the error on its own ⁵ Moreover, the objective facts appear to support the Joint Response's version of what occurred ⁶

⁴ Although GSP PAC claims it did not knowingly receive excessive contributions, it seems to have confused "knowingly" with "knowing and willful" as it admits to receiving such contributions Joint Response at 11 Since affiliated committees are subject to the contribution limits for a single committee, 2 U S C § 441a(a)(5), if GSP PAC and HHLS PAC are affiliated, *see* discussion *infra*, the \$1,500 contributions by both Kuklis and Dick to HHLS PAC would raise the total amount of their 2005 contributions to GSP PAC to \$13,300 and \$15,500, respectively The excessive contributions by Dick, Kuklis and Hammel do not qualify for redistribution under 11 C F R § 103.3(3) because they are not joint contributions

⁵ The Reports Analysis Division sent an RFAI to GSP PAC on February 8, 2006 concerning these excessive contributions GSP PAC responded that it had already refunded the excessive contributions and enclosed copies of the refund checks

⁶ An amended Statement of Organization filed by GSP PAC on April 26, 2005 reflects a different bank than the one on its original Statement of Organization GSP PAC's FEC filings for 2005, during the time period GSP PAC claims it had one account for both federal and nonfederal funds, show 26 non earmarked contributions from GSP PAC itself to state and local candidates totaling \$18,518, there are no reported contributions in GSP PAC's FEC reports to state and local candidates before the claimed account consolidation in 2004 or after the accounts were again separated in 2006

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Accordingly, we recommend the Commission find reason to believe that John Dick, Joseph Kuklis, and Charles Hammel each violated 2 U S C § 441a(a)(1)(C) by making excessive contributions to GSP PAC, and that GSP PAC violated 2 U S C § 441a(f) by knowingly accepting these excessive contributions

B. Solicitation From Outside GSP's Restricted Class and Corporate Facilitation of Contributions

1 Facts

The complaint alleges, and the Joint Response confirms, that Hammel, who is president of a GSP client, was solicited from outside the GSP's restricted class. The complaint also alleges, based on lobbying reports filed by GSP, that GSP may have used corporate resources to facilitate contributions to federal candidates from other client sources, specifically from Sean McDonald, CEO of client Precision Therapeutics, James Cimmino, Director of Technology for client YMCA of Pittsburgh, and client PAACC. The complaint attaches a news article that reports that GSP principal John Dick, when asked if he "suggests to his clients that they contribute money," replied, "Sure, it is an unfortunately big part of it. It is definitely in our interest to support candidates that care about our projects and ideas." Carrie Budoff, *From staff to lobbyist: The ties that bind*, The Philadelphia Inquirer, Apr 17, 2006, at 1 (Ellipses in original).

The Joint Response states that Hammel's \$15,000 "contribution to GSP PAC was made in response to a communication a GSP PAC official mistakenly sent him and that, accordingly, GSP PAC inadvertently solicited a contribution from an individual outside the PAC's restricted class." Joint Response at 11-12. As discussed *supra*, GSP PAC returned the excessive portion (\$10,000) of Hammel's contribution approximately two months after its receipt, but returned the remaining \$5,000 approximately five months later when it "learned for the first time" of the

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1 allegation of accepting contributions from people outside the firm from a *Roll Call* reporter
2 Joint response at 8, *see* Tory Newmyer, *Lobbying Firm Broke PAC Rules*, *Roll Call*, May 3,
3 2006, at 1 (attached to complaint), GSP PAC 2006 July Quarterly Report GSP "emphatically
4 denies that it used corporate resources to facilitate contributions to federal candidates," and
5 points out that GSP PAC filed conduit reports with the Commission Joint Response at 13-14 It
6 states that the reported assertion by Dick, who also serves as GSP PAC's treasurer, is "nothing
7 more than a generic statement that GSP PAC has made contributions—both in-kind and by
8 check—to federal candidates " *Id*

9 2 Analysis

10 a Solicitations outside the restricted class

11 A corporation may establish an SSF to provide a vehicle through which the corporation
12 and its personnel can participate in the political process *See* 2 U S C § 441b(b)(2)(C),
13 11 C F R § 114 5(d), Campaign Guide for Corporations and Labor Organizations, at 7 (SSFs are
14 a way "in which a corporation or labor union may legally participate in federal election
15 activities") A corporation's stockholders, executive and administrative personnel and their
16 respective families, or those of an affiliated organization, make up its restricted class 2 U S C
17 § 441b(b)(4)(A)(i), 11 C F R §§ 114 1(j), 114 5(g)(1) ⁷

18 The Act and the Commission's regulations prohibit corporations and their SSFs from
19 soliciting contributions to the SSF from outside the corporation's restricted class 2 U S C
20 § 441b(b)(4)(A)(i), 11 C F R § 114 5(g)(1) While unsolicited contributions from outside the
21 restricted class may be accepted by a SSF, informing potential outside contributors that

⁷ A corporation may also make twice yearly written solicitations to its employees who are not part of the restricted class 11 C F R § 114 6 These solicitations are strictly limited to current employees of the corporation *Id*

1 unsolicited contributions may be accepted constitutes solicitation and is prohibited 11 C F R
2 § 114 5(j), Explanation and Justification for Part 114, H R Doc No 95-44, at 109
3 (1977)("Informing persons of the right to accept such solicitations is, however, prohibited"),
4 Campaign Guide for Corporations and Labor Org , at 21 (2001)(citing AO 1983-38 (Du Pont))

5 The Joint Response states that GSP PAC inadvertently solicited a contribution from a
6 person outside of its restricted class, claiming that GSP client Hammel's contribution was made
7 in response to a communication -- which was not provided -- mistakenly sent to him by a GSP
8 PAC official Joint Response at 11-12, citing 11 C F R § 114 5(h) That regulation, which
9 provides that an inadvertent solicitation by a corporation's SSF is not a violation if the SSF "used
10 its best efforts to comply with" the regulations and if the SSF corrected "the method of
11 solicitation forthwith after the discovery of such erroneous solicitation," was originally
12 designed to excuse inadvertent solicitations from former stockholders and corporate personnel
13 who may have sold their stock or left employment just prior to the solicitation, not solicitations
14 of individuals who were never part of the corporation's restricted class See Explanation and
15 Justification for Part 114, H R Doc No 95-44, at 108 (1977)(accidental or inadvertent
16 solicitations may occur due to "sales of stock or turnover of employees or members of a
17 corporation ") Even if the regulation is broad enough to cover an inadvertent solicitation to
18 someone who was never a member of a corporation's restricted class, the fact that several other
19 GSP clients or their officials also made contributions to or through GSP PAC, as discussed
20 below, appears to warrant an investigation whether Hammel's contribution was, as claimed, an
21 inadvertent, isolated instance of a solicitation beyond GSP's restricted class

22 We have reviewed GSP PAC's filings, which show sixteen contributions, most of them
23 not addressed in the complaint, to or flowing through GSP PAC, that appear to have come from
24 outside of GSP's restricted class, over half from known GSP client entities and individuals that

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1 are officers or directors of GSP clients.⁸ See Attachment 2, GSP PAC Receipts – Outside
2 Restricted Class. These contributions, which include Hammel's contribution of \$15,000, total
3 \$23,567 and were made during 2004 and 2005. The number of contributors during this time
4 period from outside GSP's restricted class is four times the number of contributors from within
5 the restricted class, which may indicate that GSP proffered to its lobbying or other corporate
6 clients the use of its SSF to deliver their contributions to federal candidates. Several of these
7 contributions from outside the restricted class appear to have been made within a short time
8 period, for the same amount, and in some cases, to the same candidates. See *id*.

9 A corporation may only solicit earmarked contributions to federal candidates that are to
10 flow through its SSF from within its restricted class. 11 C.F.R. §§ 114.2(f)(2)(iii)(earmarked
11 contributions solicited by the corporation must be treated as contributions to and by the SSF),
12 114.5(g)(1)(a corporation and its SSF may only solicit contributions to the SSF from its restricted
13 class). The number of contributions to or flowing through its SSF from outside GSP's restricted
14 class, particularly given the high ratio of outside contributors to restricted class contributors,
15 provides a basis to investigate the circumstances under which such contributions, including
16 Hammel's, were made, in order to ascertain if they were impermissibly solicited.

17 **b Corporate Facilitation**

18 The complaint's corporate facilitation count focuses on earmarked contributions from
19 GSP client PAACC PAC and officials of two other GSP clients, Sean McDonald and James
20 Cimino. A corporation, including its officers, directors or other representatives acting as

⁸ Three of these contributions, totaling \$500, are from the PAACC PAC, which is the SSF of the PAACC, a GSP client. Another is from the Pittsburgh Future PAC, and may consist of proceeds from a joint fundraiser. See Attachment 2. Most of the filings showing the earmarked contributions in the itemized receipts section contain the memo entries "forwarded by original check," "forwarded in the form of original check," or similar wording. Besides the lobbying reports attached to the complaint, a partial list of GSP clients may be found on its website, www.gsp-consulting.com.

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1 corporate agents, is prohibited from facilitating the making of contributions to federal candidates
2 or political committees other than to the corporation's own SSF 11 C F R § 114 2(f)(1)
3 Facilitation includes using corporate resources for fundraising in connection with any federal
4 election *Id* Examples of corporate facilitation include using a corporate list of clients who are
5 not in the restricted class to solicit contributions or distributing invitations to a fundraiser unless
6 the corporation receives advance payment for the fair market value of the list, another example is
7 soliciting earmarked contributions for a candidate to be collected and forwarded by the
8 corporation's SSF, unless those contributions are also treated as contributions to and by its SSF
9 11 C F R §§ 114 2(f)(2)(i)(C), (iii) As discussed *supra*, a corporation may only solicit
10 earmarked contributions to be collected or forwarded by its SSF if it also treats those solicitations
11 as solicitations to the SSF, which in turn means those solicitations must be limited to the
12 corporation's restricted class 11 C F R §§ 114 2(f)(2)(iii), 114 5(g)(1) Thus, a corporation
13 may not solicit persons outside its restricted class for earmarked contributions that are collected
14 or forwarded by its SSF, even if the contributions are not deposited in the SSF's account
15 11 C F R §§ 114 2(f)(2)(iii), 114 5(g)(1), Corporate and Labor Organization Activity, 60 Fed
16 Reg 64259, 64265 (Dec 14, 1995)

17 As noted previously, there are a number of earmarked contributions that flowed through
18 GSP PAC that emanated from GSP clients or their associated personnel, persons outside the
19 restricted class We do not know the circumstances under which these conduit contributions
20 came to GSP PAC However, it seems unlikely that a number of GSP's clients or their
21 associated personnel, merely by chance and without being informed of the SSF's ability to accept
22 unsolicited contributions, forwarded earmarked contributions through GSP PAC As noted, the
23 ratio of known clients contributing from outside the restricted class to those contributors from

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1 within the restricted class is 2 1 for 2004 and 2005⁹ Thus, an investigation is warranted to
2 examine whether GSP may have used its client list to target and solicit potential contributors for
3 earmarked contributions, and then collected and forwarded their contributions through GSP
4 PAC, as well as whether GSP facilitated other contributions directly to GSP PAC, and whether
5 GSP principals John Dick and Joseph Kuklis consented to such facilitation

6 Therefore, we recommend the Commission find reason to believe that GSP PAC (in the
7 case of Hammel) and GSP solicited contributions to or flowing through GSP PAC from outside
8 GSP's restricted class in violation of 2 U S C § 441b(b)(4)(A)(i) We also recommend the
9 Commission find reason to believe that GSP facilitated the making of contributions to GSP PAC
10 in violation of 2 U S C § 441b(a), and that John Dick and Joseph Kuklis violated 2 U S C
11 § 441(b)(a) by consenting to such facilitation

12 **C. Apparent Failure to Report Affiliation Between GSP PAC and HHLS PAC**
13 **and Alleged Excessive Contribution to Santorum 2006**

14
15 **1 Facts**

16 HHLS, a limited liability company, was formed as a joint venture between GSP and the
17 Houston Harbaugh law firm, both Pennsylvania corporations, in October 2002, HHLS PAC was
18 its SSF Joint Response at 8-9¹⁰ GSP assumed the entire interest of HHLS on December 21,
19 2005 Joint Response at 9 n 2 HHLS PAC's Statements of Organization did not disclose any
20 affiliation with GSP or GSP PAC, and GSP PAC's Statements of Organization likewise did not
21 reflect any affiliation with HHLS or HHLS PAC

⁹ This is a lower ratio than the number of overall contributors from outside the restricted class to those within the restricted class for this time period because it is unknown whether additional outside contributors are clients – information we will attempt to discover during the investigation Nevertheless, the number of known clients contributing to GSP PAC is double that of GSP's personnel

¹⁰ The law firm did not have its own SSF HHLS PAC terminated on March 22, 2006

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1 GSP PAC admits, and its disclosure reports show, that it contributed a total of \$4,100 to
2 Santorum 2006 (\$2,000 designated to the primary election, \$2,000 designated to the general
3 election and a \$100 in-kind contribution) Joint Response at 10 n 3 HHLS PAC also admits,
4 and its disclosure reports show, that it contributed a total of \$1,500 in undesignated contributions
5 to Santorum 2006 Joint Response at 10 n 3 Thus, the combined contributions to Santorum
6 2006 from GSP PAC and HHLS PAC total \$5,600

7 2 Analysis

8 A committee must disclose its affiliated committee's or connected organization's name,
9 address and relationship on its Statement of Organization 2 U S C § 433(b)(2) "Assuming
10 without conceding that GSP PAC and HHLS PAC qualify as affiliated committees," both admit
11 that they did not notify the Commission of their "putative affiliated status " Joint Response at 12

12 Affiliated committees include SSFs established, financed, maintained or controlled by the
13 same corporation, person or group of persons, including any parent, subsidiary, branch, division,
14 department or local unit thereof 11 C F R § 100.5(g)(2) Committees also may be affiliated if
15 certain other factors are met See 11 C F R §§ 110.3(a)(2)-(3) Although the PACs do not
16 wholly concede their affiliation, it is clear they were affiliated at least from December 21, 2005,
17 when GSP assumed the entire interest of HHLS, see Joint Response at 9 n 2, until HHLS PAC
18 terminated in March 2006 While we have not located any public information concerning
19 HHLS's ownership percentages and financing outside these dates, because Kuklis and Dick were
20 simultaneously officers or directors of both GSP and HHLS, Joint Response at 9, there are
21 sufficient grounds to investigate whether the two PACs were affiliated at the time of their
22 contributions to Santorum 2006, which occurred prior to December 2005 See AOs (discussing
23 affiliation criteria) 2001-18 (Cingular Wireless), 1997-13 (USA PAC), 1992-17 (Du Pont
24 Merck), 1979-56 (Brunswick)

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1 Affiliated committees are subject to the contribution limits that apply to a single
2 committee under 2 U S C § 441a(a)(1) 2 U S C § 441a(a)(5) In 2005, the PAC contribution
3 limit was \$2,100 per election, making \$4,200 the total contribution limit from affiliated
4 committees to a Senate candidate for the 2006 primary and general elections See
5 2 U S C § 441a(c) The two PACs admit that if they were affiliated, they "together contributed
6 in excess of the maximum amount permitted by 2 U S C § 441a(a)(1) and 11 C F R § 110 1(a)
7 to Santorum 2006" by a combined total of \$1,400 ¹¹ Joint Response at 12 Had either GSP PAC
8 or HHLS PAC been a multicandidate committee, they could have availed themselves of the
9 increased contribution limits set forth in 2 U S C § 441a(a)(2)(A) and avoided making an
10 excessive contribution, however, GSP PAC and HHLS PAC admit they do not qualify as
11 multicandidate committees under 11 C F R § 100 5(e)(3) since their filings demonstrate they
12 each have had fewer than fifty contributors GSP PAC's and HHLS PAC's filings with the
13 Commission show no other jointly excessive contributions

14 Based on the above, we recommend the Commission find reason to believe that GSP
15 PAC violated 2 U S C § 433(b)(2) by failing to disclose its affiliated status with HHLS PAC¹²
16 and 2 U S C § 441a(a)(1)(A) by contributing \$5,600 to Santorum 2006, exceeding the
17 contribution limits by \$1,400 ¹

¹¹ Even under the presumptive redesignation regulations, the contributions are still excessive See 11 C F R
§ 110 1(b)(5)(i)(B), (C)

¹² According to the Joint Response, GSP assumed all of the assets and liabilities of HHLS PAC when Houston
Haubaugh, P C , assigned its entire interest in HHLS to GSP Therefore, we are not recommending the Commission
make any findings concerning HHLS PAC at this time

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1 Political committees may not knowingly accept contributions in excess of the limits set
2 forth in 2 U S C § 441a(a)(1). In response to the complaint, Santorum 2006 claimed that at the
3 time it accepted the contributions, it did not know the GSP PAC and HHLS PAC were affiliated
4 and noted that once it became aware of the putative affiliation and prior to the complaint being
5 filed, it returned the \$1,400 in excess contributions to GSP PAC. Santorum Response at 1. As
6 GSP PAC and HHLS PAC failed to disclose any affiliated status in their Commission filings, and
7 the contributions likely would not have appeared excessive on their face, we have no basis to
8 infer Santorum 2006 knew it was accepting excessive contributions. Therefore, we recommend
9 the Commission find no reason to believe that Santorum 2006 violated 2 U S C § 441a(f) by
10 knowingly accepting an excessive contribution.

11 **D. McDonald's Contribution to Santorum 2006**

12 **1 Facts**

13 On July 7, 2004, Sean McDonald gave a \$2,000 contribution to GSP PAC that was
14 earmarked for Santorum 2006. See GSP PAC's 2004 October Quarterly Report. The 2004
15 October Quarterly Report for Santorum 2006 shows a \$2,000 contribution received from
16 McDonald on August 4, 2004. The complaint alleges these reports show McDonald made two
17 contributions, for a total of \$4,000, to Santorum 2006 for the primary election. The Joint
18 Response states that there was actually only one contribution of \$2,000 earmarked to Santorum
19 2006 that flowed through GSP PAC and that was reported by both GSP PAC and Santorum
20 2006, reflecting "both ends of the same transaction." Joint Response at 13.

21 **2 Analysis**

22 The contribution limit for the 2003-2004 election cycle was \$2,000 per election. 2 U S C
23 § 441a(a)(1)(A). Commission records confirm that McDonald made only one \$2,000

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1 contribution to Santorum 2006 in 2004 ¹⁴ Therefore, we recommend the Commission find no
2 reason to believe Sean McDonald violated 2 U S C § 441a(a)(1)(A) by making an excessive
3 contribution to Santorum 2006 and no reason to believe that Santorum 2006 knowingly violated
4 2 U S C § 441a(f) by accepting an excessive contribution from McDonald, and close the file
5 with respect to Santorum 2006 As McDonald is part of the GSP client group that contributed to
6 or through GSP PAC, we recommend that, pending an investigation, the Commission not close
7 the file as to him, but rather take no other action at this time with respect to the allegations
8 concerning the circumstances of his contribution to Santorum 2006 through GSP PAC We also
9 recommend the Commission take no action at this time as to Cimino and the PAACC PAC with
10 respect to the allegations concerning the circumstances of their contributions through GSP PAC

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20 **IV. RECOMMENDATIONS**

21 **I Find reason to believe that John Dick violated 2 U S C § 441a(a)(1)(C) by**
22 **making excessive contributions to GSP PAC**

¹⁴ McDonald made the contribution on July 7, 2004, but it was not reported as received by Santorum 2006 until August 4, 2004 While GSP PAC was required to forward the earmarked contribution within ten days, the memorandum entry attached to the 2004 October Quarterly Report shows it was "forwarded in the form of original check on 7/12/2004 " This indicates the delay in delivery of the contribution likely occurred in transit

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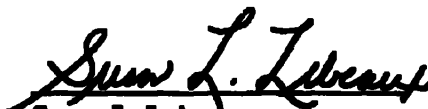
- 2 Find reason to believe that Joseph Kuklis violated 2 U S C § 441a(a)(1)(C) by making excessive contributions to GSP PAC
- 3 Find reason to believe that Charles Hammel violated 2 U S C § 441a(a)(1)(C) by making excessive contributions to GSP PAC
- 4 Find reason to believe that GSP Consulting Corporation PAC and John Dick, in his official capacity as treasurer, violated 2 U S C § 441a(f) by knowingly accepting excessive contributions
- 5 Find reason to believe that GSP Consulting Corporation and GSP Consulting Corporation PAC and John Dick, in his official capacity as treasurer, violated 2 U S C § 441b(b)(4)(A)(i) by soliciting contributions to GSP Consulting Corporation PAC from outside GSP Consulting Corporation's restricted class
- 6 Find reason to believe that GSP Consulting Corporation violated 2 U S C § 441b(a) by facilitating the making of contributions
- 7 Find reason to believe that John Dick violated 2 U S C § 441b(a) by consenting to GSP Consulting Corporation facilitating the making of contributions
- 8 Find reason to believe that Joseph Kuklis violated 2 U S C § 441b(a) by consenting to GSP Consulting Corporation facilitating the making of contributions
- 9 Find reason to believe that GSP Consulting Corporation PAC and John Dick, in his official capacity as treasurer, violated 2 U S C § 433(b)(2) by failing to disclose its affiliation with Houston Harbaugh Legislative Services PAC and Gregory Harbaugh, in his official capacity as treasurer
- 10 Find reason to believe that GSP Consulting Corporation PAC and John Dick, in his official capacity as treasurer, violated 2 U S C § 441a(a)(1)(A) by making an excessive contribution in conjunction with an affiliated entity
- 11 Find no reason to believe that Santorum 2006 and Gregg R. Mehnson, in his official capacity as treasurer, violated 2 U S C § 441a(f) by knowingly accepting an excessive contribution, and close the file as to Santorum 2006
- 12 Find no reason to believe that Sean McDonald violated 2 U S C § 441a(a)(1)(A) by making an excessive contribution to Santorum 2006
- 13 Take no other action at this time concerning Sean McDonald, and take no action at this time concerning James Cimino and the Pittsburgh Airport Area Chamber of Commerce
- 14 Approve the attached Factual and Legal Analyses

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15

16 Approve the appropriate letters

2/5/07
Date


Susan L. Lebeaux
Assistant General Counsel


J. Cameron Thurber
Attorney

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